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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,816

12/02/2003

William Croft

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3611

4743

7590

05/19/2006

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EXAMINER

BERRY, WILLIE WENDELL JR

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/725,816	CROFT ET AL.	
	Examiner	Art Unit	
	Willie W. Berry, Jr.	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/04, 9/04, 1/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statements filed May 14, 2004, September 29, 2004 and January 6, 2005 fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 recites the limitation "the side panel" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 12-20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by patent no. 5,524,573 to Hart.

In regard to claims 1 and 12, Hart discloses a dog house (10) comprising: a floor panel (14); a sidewall (16) attachable to the floor panel and having an upper edge; an opening (46 and 48) formed in the sidewall to allow a canine ingress and egress; and a roof panel (60) attached to the sidewall and shiftable between an open position and a closed position. It is inherent that Hart discloses the method of claim 12 since Hart discloses all of the structural limitations of the disclosed claim.

In regard to claims 2 and 13, Hart discloses the dog house of claims 1 and 12, wherein the floor panel has an outer perimeter and the sidewall extends upward from the outer perimeter (not numbered, but shown in fig. 5).

In regard to claims 3 and 14, Hart discloses the dog house of claims 1 and 12, wherein the sidewall comprises a plurality of panels (20 and 22).

In regard to claims 4 and 15, Hart discloses the dog house of claims 3 and 14, wherein the sidewall includes a front panel (20), a rear panel (20), a left panel (22); and a right panel (22).

In regard to claims 5 and 16, Hart discloses the dog house of claims 1 and 12, the roof panel being connected to the sidewall by a hinge (col. 5, lines 22-26), wherein the roof panel can pivot about the hinge.

In regard to claims 6 and 17, Hart discloses the dog house of claims 5 and 12, wherein the hinge includes a hinge pin member (108 and col. 5, lines 60-65), the hinge pin member including a cylinder (not numbered, but shown in fig. 8).

In regard to claims 7 and 18, the dog house of claims 6 and 17, wherein the roof panel includes a substantially circular hinge pin receiver (104 and 106).

In regard to claims 8 and 19, Hart discloses the dog house of claims 7 and 18, the hinge pin member including a stop surface and the hinge pin receiver including a bearing surface, wherein the stop surface restricts rotation of the roof panel is considered to be conventional and would work equally as well with other hinge constructions as stated by applicant in his specification at p. 11 in paragraph 0063. It is therefore considered that the patent to Hart works equally as well and meets the limitations of claims 8 and 19, since these features as stated by applicant are not patentably distinct.

In regard to claims 9 and 20, Hart discloses the dog house of claims 7 and 18, wherein the hinge pin member is removable from the hinge pin receiver to remove the roof panel from the sidewall (col. 5, lines 60-65).

In regard to claim 22, Hart discloses a dog house, comprising: a floor panel (14); a sidewall (16) attachable to the side panel and defining an upper portion; a roof panel (60) attached to the sidewall at the upper portion, the floor panel, sidewall and roof panel defining an internal space; a first opening (46 and 48) disposed in the sidewall sized to allow a canine ingress and egress; and a second opening (36) spaced away from the first opening and cooperating with the first opening to define an air flow path between the first opening and the second opening.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over patent no. 5,524,573 to Hart.

Hart discloses as discussed above and discloses sidewalls with a plurality of snaps (24).

Hart does not disclose a floor panel with a plurality of receiver holes.

Hart teaches that it is known to have receiver holes (26) in a sidewall.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to put the receiver holes as taught by Hart in the floor panel as an engineering choice since the specific location of parts does not have patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart in view of patent no. 3,942,306 to Kulka.

Hart discloses as discussed above.

Hart does not disclose a ledge associated with rear panel.

Kulka teaches that it is known to have a ledge (not numbered, but shown in fig. 2 as the bottom surface of opening 24) in the rear panel of an animal noise protection device.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the ledge as taught by Kulka for the purpose of providing openings in the assembly as stated by Kulka in col. 2, lines 50-60.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart in view of patent no. 5,964,190 to Willinger et al.

Hart discloses as discussed above.

Hart does not disclose the sidewall including at least a first panel shiftable between a first position and a second position, the internal space when the sidewall is in the first position being different than the internal space when the sidewall is in the second position.

Willinger et al. discloses that it is known to have a shiftable panel (fig. 7) in a pet shelter.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the shiftable panel as taught by Willinger et al. for the purpose of limiting the space provided to a single animal as stated by Willinger et al. in col. 5, lines 10-20.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart in view of patent no. 5,003,923 to Morgan.

Hart discloses as discussed above.

Art Unit: 3643

Hart does not disclose a roof panel extending past the sidewall above the opening to form a rain guard.

Morgan teaches that it is known to have a roof panel extended over sidewall (24 and 28) in a heated pet house.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the extended roof panel as taught by Morgan for the purpose of providing a means of protecting the interior components of the heated pet house.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie W. Berry, Jr. whose telephone number is (571) 272-8974. The examiner can normally be reached on 9:00am to 5:30pm Mon. - Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wbj. *Wbj.*


JACK KEITH
SUPERVISORY PATENT EXAMINER